

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KEVIN SELKOWITZ, an individual,

Plaintiff

v.

LITTON LOAN SERVICING LP, a Delaware Limited Partnership; NEW CENTURY MORTGAGE CORPORATION, a California Corporation; QUALITY LOAN SERVICE CORPORATION OF WASHINGTON, a Washington Corporation ; FIRST AMERICAN TITLE INSURANCE COMPANY, a Washington Corporation; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., a Delaware Corporation, and DOE Defendants 1-20,

NO. 3:10-cv-05523-JCC

PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE

NOTE ON MOTION CALANDER:  
October 27, 2010

In response to the Court's October 6, 2010 Order directing all parties to show cause why the Court should not submit the issue of whether MERS was authorized an authorized "beneficiary" under Washington's Deed of Trust Act counsel for the Plaintiff conducted a thorough review of Washington cases and could find no cases addressing this Court's issues.

There were no reported cases addressing the propriety of Mortgage Electronic Registration Systems or any other non-holding entity being designated as a "beneficiary" under *RCW 61.24.050(2)*. An unreported opinion from the Washington Court of Appeals Division One contained a footnote explicitly refusing to address the issue. *Gunsul v. Countrywide Loans*,


1 Docket Number: 56071-9 (2006).

2 There were no reported cases addressing the legal effect in a nonjudicial foreclosure of  
3 the appointment of a successor trustee by an unauthorized beneficiary.

4 On the foregoing basis and having no further objection the Plaintiff believes this matter  
5 should be certified to the Washington Supreme Court pursuant to *RCW 2.60.030*.

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7 **RESPECTFULLY SUBMITTED** this 26<sup>th</sup> day of October, 2010.

8 **RICHARD LLEWELYN JONES, P.S.**

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10 Richard Llewelyn Jones, WSBA No. 12904  
11 Attorney for Plaintiff  
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**CERTIFICATE OF SERVICE**

I hereby declare under penalty of perjury of the laws of the State of Washington that on this 26<sup>th</sup> day of October, 2010, I caused to be delivered a copy of the foregoing PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE to the following in the manner indicated:

Ann T. Marshall Bishop White Marshall & Weibel PS 720 Olive Way Ste 1301 Seattle, WA 98101-1834	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger/Processor <input checked="" type="checkbox"/> By ECF <input type="checkbox"/> By Facsimile
Heidi E. Buck Routh Crabtree Olsen, P.S. 3535 Factoria Blvd SE Ste 200 Bellevue, WA 98006-1263	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger/Processor <input checked="" type="checkbox"/> By ECF <input type="checkbox"/> By Facsimile
Kennard M. Goodman Bishop White Marshall & Weibel PS 720 Olive Way Ste 1301 Seattle, WA 98101-1834	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger/Processor <input checked="" type="checkbox"/> By ECF <input type="checkbox"/> By Facsimile
Mary Stearns McCarthy & Holthus LLP 19735 - 10 <sup>th</sup> Avenue NE, Suite N200 Poulsbo, WA 98370	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger/Processor <input checked="" type="checkbox"/> By ECF <input type="checkbox"/> By Facsimile

Signed this 26<sup>th</sup> day of October, 2010 at Bellevue, Washington.

  
 Susan L. Rodriguez  
 Paralegal to Richard Llewelyn Jones, P.S.